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14 **UNITED STATES DISTRICT COURT**
15 **SOUTHERN DISTRICT OF CALIFORNIA**

16 ALEX DOMINGUEZ,
17
18 Plaintiff,

19 v.

20 FOUR WINDS INTERNATIONAL
21 CORPORATION,
22
23 Defendant.

Case No. 08 CV 388 L LSP

**DECLARATION OF MARTIN W.
ANDERSON RE: DEFENDANT'S
COUNSEL'S FAILURE TO
COOPERATE IN PREPARING
THE DISCOVERY PLAN**

Complaint Filed: February 29, 2008
Trial Date: None Set

Before Hon. James M. Lorenz
Courtroom 14

24 I, MARTIN W. ANDERSON, hereby declare as follows:

25 1. I am one of the attorneys for Plaintiff in this action. I make this
26 Declaration to explain my efforts to prepare the Discovery Plan and to respond to
27 the Declaration of John Ward which Defendant filed on August 1, 2008.

28 2. On June 25, 2008, I prepared and faxed Defendant's counsel, Mr.
John Ward, a draft Joint Discovery Plan.

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1 3. Mr. Ward did not respond to my draft Joint Discovery Plan until 23
2 days later. On July 18, 2008, Mr. Ward e-mailed me and requested that I add three
3 additional paragraphs to the summary of the case.

4 4. On July 22, 2008, I e-mailed Defendant's counsel a revised version of
5 the Discovery Plan, containing his requested changes and revisions to respond to
6 those changes.

7 5. On July 28, 2008, Defendant's counsel requested more changes. Mr.
8 Ward requested the addition of a whole new section entitled "Defendant's Reply to
9 Plaintiff's Response." I made those changes, along with my own, and e-mailed
10 another revised version to Defendant's counsel on July 29, 2008.

11 6. On July 29, 2008, Defendant's counsel requested even more changes.
12 This time, he requested that I add two new paragraphs, and delete the Reply
13 section that he had asked me to add on July 28, 2008. I again made those changes,
14 along with my own, and e-mailed a revised version to Defendant's counsel again
15 on July 30, 2008. I explained in my transmittal e-mail that I believed that this was
16 the "final version."

17 7. Instead of signing the final version, on July 30, 2008, Defendant's
18 counsel requested that I add five more paragraphs to the Discovery Plan. I again
19 made those changes, along with my own, and e-mailed Defendant's counsel again
20 on July 31, 2008.

21 8. On July 31, 2008, at 3:19 p.m., Defendant's counsel requested that I
22 add three additional paragraphs. I again made those changes, along with my own,
23 and e-mailed Defendant's counsel again on July 31, 2008, at 3:43 p.m.

24 9. Defendant's counsel never responded to that e-mail. Instead,
25 Defendant's counsel has filed a Declaration with the Court claiming that we have
26 been unable to agree on a discovery plan, and then attaching an earlier version of
27 the plan, with the changes he requested, but without my revisions to respond to
28

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1 them. Apparently, he did not want the Court to read my response to his latest
2 additions.

3 10. I agree with Mr. Ward's statement that the issues on which we have
4 been exchanging e-mails for the last week are irrelevant and should not be in a
5 discovery plan. In fact, I repeatedly asked that he remove the issues (and that I
6 would remove my response to them), but he has refused. As long as Mr. Ward
7 includes these issues in his section, I feel compelled to respond to them in my
8 section. As I indicate in the Discovery Plan, these issues should be resolved by
9 noticed motion with full briefing.

10 11. I sent Mr. Ward the latest version of the discovery plan at 3:43 p.m.
11 on July 31, 2008. Since then, I have not heard from him and he has not signed the
12 discovery plan. Accordingly, I will be filing the discovery plan without his
13 signature. If he suggests further revisions or agrees to sign the plan as is, I will
14 make those further revisions and will file a revised plan if he chooses to sign the
15 plan.

16 I declare under penalty of perjury that the foregoing is true and correct.
17 DATED: August 1, 2008

18 s/Martin W. Anderson
19 MARTIN W. ANDERSON
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PROOF OF SERVICE

I, Martin W. Anderson, am employed in the County of Orange, State of California. I am over the age of 18, and not a party to this action. My business address is 2070 North Tustin Avenue, Santa Ana, California 92705.

ELECTRONICALLY: On the date indicated below, an attorney with our office will file the document described below electronically using the Court's CM/ECF System. I am informed and believe that the Court's CM/ECF system will automatically e-mail a Notice of Electronic Filing to each registered CM/ECF user and that this e-mailing will constitute electronic service of the document.

Document(s) Served:

DECLARATION OF MARTIN W. ANDERSON RE: DEFENDANT'S COUNSEL'S FAILURE TO COOPERATE IN PREPARING THE DISCOVERY PLAN

Person(s) served, address(es), and fax number(s):

Mr. John Ward
Walker, Wright, Tyler & Ward
626 Wilshire Blvd., Suite 900
Los Angeles, CA 90017

Date of Service: August 1, 2008

Date Proof of Service Signed: August 1, 2008

I declare under penalty of perjury under the laws of the State of California and of my own personal knowledge that the above is true and correct.

s/ Martin W. Anderson
Signature: _____